



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 7, 1998

Ms. Carla Robinson
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR98-2965

Dear Ms. Robinson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120173.

The City of College Station (the "city") received a request for information relating to an investigation concerning Dr. Swiki A. Anderson.¹ You indicate that most of the existing responsive documents have been released to this requestor. However, you seek to withhold some of the responsive information, contending that it is excepted from public disclosure pursuant to Government Code sections 552.027 and 552.107. We have considered the exceptions you raise and have reviewed the documents at issue.

Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *Id.* at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3.

¹We note the request for information was received by the city on September 2, 1998 and that the city submitted its request for opinion to our offices on September 16, 1998. Thus, the request for opinion was filed "not later than the 10th business day after the date of receiving the written request" as required by Government Code section 552.301(a). We also note that while the requestor identifies himself as a member of the City Counsel, the request is couched as a private action rather than an official action; we therefore assume no special right of access to the requested information.

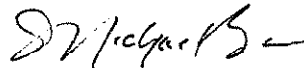
In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.*

Applying the above criteria to the submitted information, we agree that the submitted list of questions constitutes the attorney's legal advice and opinion. It is therefore excepted from disclosure by section 552.107 of the Government Code. However, we note that much of the information in the submitted memoranda consists of recitations of facts. These recitations are not excepted from disclosure. Those portions of the memoranda that reflect advice or opinion are excepted from disclosure by Government Code section 552.107. The statutes, regulations and publications attached to the memoranda are incorporated into the advice and opinion of the attorney and are therefore also excepted. You indicate that you will make available to this requestor the "memo" dated June 26, 1997 and attached to the memorandum dated May 6, 1998. If you have not done so as yet, this information must be released. We have marked those portions of the submitted information that may be withheld, the remainder must be released.

As all the submitted information is subject to the above discussion, we do not address your argument under section 552.027 of the Government code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 120173

Enclosures: Submitted documents

cc: Ms. Swiki A. Anderson
1805 Hondo
College Station, Texas 77842
(w/o enclosures)